

## AMS/FAST CHANGE REQUEST (CR) COVERSHEET

**Change Request Number:** 23-56

**Date Received:** March 20, 2023

**Title:** Non-Disclosure Agreement Threshold Guidance

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**Policy and Guidance:** (Please check only one box)

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|---|--|
| <input type="checkbox"/> Policy                 | <input type="checkbox"/> Procurement Tools and Resources     |
| <input checked="" type="checkbox"/> Guidance    | <input type="checkbox"/> Real Property Templates and Samples |
| <input type="checkbox"/> Procurement Samples    | <input type="checkbox"/> Procurement Clauses                 |
| <input type="checkbox"/> Procurement Templates  | <input type="checkbox"/> Real Property Clauses               |
| <input type="checkbox"/> Procurement Forms      | <input type="checkbox"/> Other Tools and Resources           |
| <input type="checkbox"/> Procurement Checklists |  |

**Summary of Change:**

T3.1.6A2.-Non-Disclosure Agreement threshold changed from \$150,000 to the new AMS risk threshold (\$250,000).

**Reason for Change:**

The purpose of the change is to update AMS thresholds to be as flexible and current with government wide thresholds. The change also implements the AMS risk threshold (ART) to reduce the number of changes to AMS as it relates to thresholds by creating a standard term within AMS for acquisition related actions at the \$250,000 threshold. (i.e., AMS risk threshold).

**Development, Review, and Concurrence:** AAP

**Target Audience:** FAA Acquisition Workforce

**Briefing Planned:** Yes.

**ASAG Responsibilities:** Awareness. To be presented at the March 20, 2023 ASAG Meeting.

**Section / Text Location:** Procurement Guidance-T3.1.6A2

**The redline version must be a comparison with the current published FAST version.**

☒ I confirm I used the latest published version to create this change / redline

**or**

☐ This is new content

**Links:** <https://fast.faa.gov/docs/procurementGuidance/guidanceT3.1.6.pdf>

**Attachments:** Redline and final documents.

**Other Files:** N/A.

**Redline(s):**

### **Section Revised: T3.1.6 – Non-Disclosure of Information**

**Procurement Guidance - (~~1/2023~~4/2023)**

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[T3.1.6 Non-Disclosure of Information](#) Revised 8/2009

[A Disclosure of Information](#)

[1 General](#) Revised 1/2007

[2 Requirement for Non-Disclosure Agreement](#) Revised ~~4/2022~~4/2023

[3 Processing a Violation of the Non-Disclosure Agreement](#) Revised 9/2021

[4 Processing a Freedom of Information \(FOIA\) Request](#) Revised 1/2017

[5 Single-Source/Non-Competitive Acquisitions](#) Revised 9/2021

[B Clauses](#)

[C Procurement Forms](#) Revised 9/2021

[D Procurement Samples](#) Added 9/2021

[E Procurement Templates](#) Added 9/2021

[F Procurement Tools and Resources](#) Added 9/2021

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### **T3.1.6 Non-Disclosure of Information** Revised 8/2009

#### **A Disclosure of Information**

##### **1 General** Revised 1/2007

The Source Selection Official (SSO), each procurement team member (program officials, contracting personnel, legal counsel, and other support staff), including advisors, and any other individuals exposed to commercially sensitive and source selection sensitive information must maintain confidentiality of that information.

##### **2 Requirement for a Non-Disclosure Agreement** Revised 4/2022/2023

Maintaining the security of sensitive procurement information and source selection proceedings is of paramount importance to the integrity of the evaluation process. To assure that sensitive data acquired in the course of the procurement are handled properly by each procurement team member, the individuals involved in these proceedings are required to sign a Non-Disclosure Agreement (see AMS Procurement Templates) before the Screening Information Request (SIR) is issued for all procurements with an estimated value ~~of \$150,000 or greater equal to or exceeding the AMS risk threshold~~. This agreement provides notice of the type of information that requires protection and the penalties for improperly disclosing such information.

The certification of completion of Annual Ethics Training by Contracting Officers, Contract Specialists, Cost/Price Analysts of AAP-500, and Legal Counsel is considered a blanket Non-Disclosure Agreement for the following fiscal year, so these individuals will not need to fill out individual Non-Disclosure Agreements. The completion of Annual Ethics Training is documented in eLMS.

##### **3 Processing a Violation of the Non-Disclosure Agreement** Revised 9/2021

Any suspected or actual improper disclosure of procurement sensitive information must be reported to the Contracting Officer. The Contracting Officer will consult with the Procurement Legal Division for guidance in this matter. The suspected violator should not be permitted to continue in the procurement process until the suspected violation has been reviewed and legal advice obtained.

##### **4 Processing a Freedom of Information (FOIA) Request** Revised 1/2017

a. The CO processes requests for procurement information under FOIA. Unless the request for information is exempt from disclosure under the Act (such as trade secrets and commercial or financial information that is privileged or confidential), the information must be released. The CO coordinates responses to FOIA requests with the local FOIA Control Officer and the Office of Chief Counsel.

b. The CO must coordinate a request for procurement information with the vendor (submitter) whose contract, or information provided under a contract, is requested. The CO must request that the vendor describe the specific information exempt from disclosure and provide the specific exemption(s) which apply to the information. The vendor's response must be placed in the contract file. The CO determination whether the information is exempt from disclosure and rationale for the determination must also be placed in the contract file.

## **5 Single-Source/Non-Competitive Acquisitions** Revised 9/2021

The requirements of this Section are also applicable to single-source and non-competitive acquisitions. For such acquisitions, the Contracting Officer will take all appropriate actions in coordination with the Program Office. Subject to the Procurement Legal Division approval, the Contracting Officer may tailor the Non-Disclosure Agreement as appropriate.

### **B Clauses**

[view contract clauses](#)

### **C Procurement Forms** Added 9/2021

Document Name

### **D Procurement Samples** Added 9/2021

Document Name

### **E Procurement Templates** Added 9/2021

Document Name
Non-Disclosure Agreement

### **F Procurement Tools and Resources** Added 9/2021

